

APR 23 2009

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	CONSENT ORDER
PETITIONER,)	
)	
VS.)	CAUSE NO. A-1819
)	
DIRECT TITLE INSURANCE)	
AGENCY, INC., and)	
CHRISTOPHER L. DURLING,)	
)	
RESPONDENTS.)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Janette L. Adair, and Direct Title Insurance Agency, Inc. and Christopher L. Durling ("Respondents"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondents pursuant to Neb. Rev. Stat. §§ 44-101.01, 44-4047 et seq. and 44-19,106 et seq. (Reissue 2004).

2. Respondents were licensed as an insurance producer and agency under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Direct Title Insurance Agency, Inc., and Christopher L. Durling, Cause Number A-1819 on March 19, 2009. Copies of the petition were served upon the Respondents at the Respondents' business addresses registered with the Department by certified mail, return receipt requested.

2. Respondents are alleged to have violated Neb. Rev. Stat. §§ 44-4061, and 44-4059(1)(b) as a result of the following conduct:

- a. Respondents allegedly violated these statutes approximately thirty-two times, during the time period of June 26, 2008 to October 16, 2008, as a result of issuing approximately thirty-two title insurance commitments, on property located in the State of Nebraska, as an agent for "Dakota Homestead Title Insurance Agency" or "Dakota Homestead Title Insurance Company" without an appointment.
- b. Respondents allegedly violated these statutes approximately thirty-six times, during the time period of August 22, 2008 to December 29, 2008, as a result of issuing approximately thirty-six title insurance policies as an agent of Dakota Homestead Title Insurance Company without an appointment.

3. Respondents are alleged to have violated Neb. Rev. Stat. §§ 44-19,109(3) and 44-4059(1)(b) as a result of handling escrow and/or security deposit funds without maintaining a surety bond, letter of credit, certificate of deposit, or deposit of cash or securities in an amount of not less than one hundred thousand dollars.

4. Respondents are alleged to have violated Neb. Rev. Stat. §§ 44-1997, 44-4059(1)(b) and 44-4059(1)(h) as a result of charging the following fees in addition to the all-inclusive title insurance rates filed with the Department:

- a. Respondents' File #08-28831 - \$25.00 tax certification fee;
- b. Respondents' File #08-26828 - \$35.00 tax certification fee;
- c. Respondents' File #08-27722-1 - \$25.00 tax certification fee;
- d. Respondents' File #08-27794-2 - \$20.00 tax certification fee;
- e. Respondents' File #08-27795-1 - \$25.00 tax certification fee;
- f. Respondents' File #08-27797-1 - \$25.00 tax certification fee and \$55.00 search fee;
- g. Respondents' File #08-27798-1 - \$20.00 tax certification fee;
- h. Respondents' File #08-27800-1 - \$20.00 tax certification fee;
- i. Respondents' File #08-27801-2 - \$25.00 tax certification fee;

- j. Respondents' File #08-28022-2 - \$25.00 tax certification fee;
- k. Respondents' File #08-28239 - \$25.00 tax certification fee;
- l. Respondents' File #08-28240 - \$25.00 tax certification fee;
- m. Respondents' File #08-28281-2 - \$25.00 tax certification fee;
- n. Respondents' File #08-28353-1 - \$25.00 tax certification fee and \$180.00 search fee;
- o. Respondents' File #08-28465 - \$25.00 tax certification fee and \$125.00 search fee;
- p. Respondents' File #08-27848 - \$25.00 tax certification fee and \$180.00 search fee;
- q. Respondents' File #08-28594 - \$25.00 tax certification fee and \$180.00 search fee;
- r. Respondents' File #08-28770 - \$25.00 tax certification fee;
- s. Respondents' File #08-29021 - \$25.00 tax certification fee and \$180.00 search fee;
- t. Respondents' File #08-29254 - \$25.00 tax certification fee and \$180.00 search fee;
- u. Respondents' File #08-27925-2 - \$205.00 tax certification fee/search fee;
- v. Respondents' File #08-27079 - \$35.00 tax certification fee;
- w. Respondents' File #08-27252-1 - \$20.00 tax certification fee and \$150.00 search fee;
- x. Respondents' File #08-27254-2 - \$25.00 tax certification fee and \$125.00 search fee;
- y. Respondents' File #08-27258-2 - \$20.00 tax certification fee and \$125.00 search fee;
- z. Respondents' File #08-27356 - \$25.00 tax certification fee and \$180.00 search fee;
- aa. Respondents' File #08-27357-2 - \$25.00 tax certification fee and \$180.00 search fee;
- bb. Respondents' File #08-27359 - \$25.00 tax certification fee and \$180.00 search fee;

- cc. Respondents' File #08-27360-3 - \$25.00 tax certification fee and \$180.00 search fee;
- dd. Respondents' File #08-27361-3 - \$25.00 tax certification fee and \$180.00 search fee;
- ee. Respondents' File #08-29002 - \$25.00 tax certification fee and \$ 180.00 search fee;
- ff. Respondents' File #08-29158 - \$25.00 tax certification fee and \$180.00 search fee;
- gg. Respondents' File #08-27255 - \$25.00 tax certification fee and \$125.00 search fee.

5. Respondents are alleged to have violated Neb. Rev. Stat. §§ 44-319, 44-4059(1)(b) and 44-4059(1)(h) as a result of charging and/or collecting the following endorsement fees that were not reported and/or remitted to the insurer resulting in the endorsements not being issued on the title insurance policy:

- a. Respondents' File #08-28831 - \$50.00;
- b. Respondents' File #08-27794-2 - \$50.00;
- c. Respondents' File #08-27795-1 - \$75.00;
- d. Respondents' File #08-27797-1 - \$75.00;
- e. Respondents' File #08-27798-1 - \$50.00;
- f. Respondents' File #08-27800-1 - \$75.00;
- g. Respondents' File #08-27801-2 - \$75.00;
- h. Respondents' File #08-28239 - \$50.00;
- i. Respondents' File #08-28240 - \$75.00;
- j. Respondents' File #08-28465 - \$50.00;
- k. Respondents' File #08-28594 - \$400.00;
- l. Respondents' File #08-27252-1 - \$75.00;
- m. Respondents' File #08-27254-2 - \$50.00;

- n. Respondents' File #08-27356 - \$25.00;
- o. Respondents' File #08-27357-2 - \$25.00;
- p. Respondents' File #08-27359 - \$25.00;
- q. Respondents' File #08-27360-3 - \$25.00;
- r. Respondents' File #08-27361-3 - \$25.00;
- s. Respondents' File #08-27255 - \$50.00.

6. Respondents are alleged to have violated Neb. Rev. Stat. §§ 44-319, 44-4059(1)(b) and 44-4059(1)(h) as a result of charging and/or collecting the following title insurance premium and related fees that as of the date of the petition had not been reported and/or remitted to the insurer resulting in the title insurance policy and endorsements not being issued as of the date of the petition:

- a. Respondents' File #08-26828 - \$735.00;
- b. Respondents' File #08-27722-1 - \$916.00;
- c. Respondents' File #08-28281-2 - \$694.00;
- d. Respondents' File #08-28353-1 - \$978.00;
- e. Respondents' File #08-28770 - \$401.00;
- f. Respondents' File #08-29021 - \$1,305.00;
- g. Respondents' File #08-29254 - \$1,225.00;
- h. Respondents' File #08-27925-2 - \$948.00;
- i. Respondents' File #08-27079 - \$869.00.

7. Respondents are alleged to have violated Neb. Rev. Stat. § 44-4059(1)(h) as a result of the following conduct:

- a. On or about September 17, 2008, Insurance Investigator Barbara Ems sent a written inquiry to Respondents requesting a "list of any and all title insurance policies or commitments the agency has issued, or has pending, on real property located in the State of Nebraska, and a copy of the schedule showing the premium and fees charged for each policy and/or commitment." On or about October 27, 2008, Respondents submitted a

response to Investigator Ems that failed to disclose at least eleven title insurance commitments.

- b. On or about February 2, 2009, Investigator Ems sent a written inquiry to Respondents specifically requesting copies of the eleven title insurance commitments omitted from the October 27, 2008 response by Respondents. On or about February 23, 2009, Respondents provided copies of title insurance commitments for nine of these transactions. None of the title insurance commitments included in Respondents' October 27, 2008 response had search fees on the face of the commitment. All of the title insurance commitments that were withheld from the October 27, 2008 response, and included in the Respondents' February 23, 2009 response, had search fees appearing on the face of the commitment.

8. Respondents were informed of their right to a public hearing. Respondents waive that right, and enter into this Consent Order freely and voluntarily. Respondents understand and acknowledge that by waiving their right to a public hearing, Respondents also waive their right to confrontation of witnesses, production of evidence, and judicial review.

9. Respondents neither admit nor deny the allegations stated in Paragraphs 2 through 7.

CONCLUSIONS OF LAW

Respondents' conduct as alleged above constitutes violations of Neb. Rev. Stat. §§ 44-319, 44-1997, 44-19,109(3), 44-4061, 44-4059(1)(b), 44-4059(1)(h), and 44-4061 (Reissue 2004).

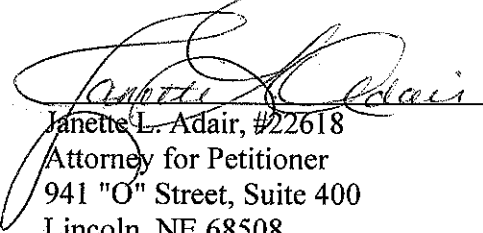
CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by Respondents, Direct Title Insurance Agency, Inc., and Christopher L. Durling, that:

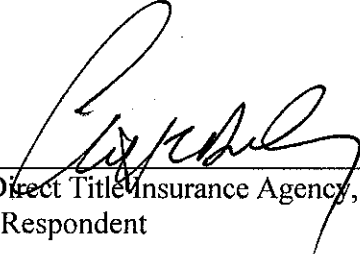
1. Respondents' insurance producer license and agency license shall be immediately revoked.

2. Respondents shall return all licenses to the Department of Insurance within ten (10) business days from the date the Director of the Department of Insurance affixes her signature to this document and approves this consent agreement.
3. On or before April 16, 2009, Respondents shall issue checks refunding all overcharges of premium and/or fees related to Nebraska title insurance policies, including but not limited to, those noted above in this consent order. Respondents shall provide evidence of receipt of such payments to the Petitioner's Consumer Affairs Division at least once each month until evidence of all payments has been verified.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing their signature below.


Janette L. Adair, #22618
Attorney for Petitioner
941 "O" Street, Suite 400
Lincoln, NE 68508
(402) 471-2201

4-23-09
Date

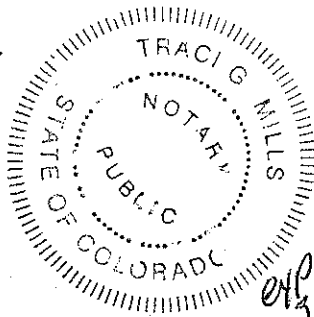

Direct Title Insurance Agency, Inc.,
Respondent

By: Chris Darling

4/22/09
Date

State of Colorado)
County of Jefferson) ss.

On this 22nd day of April, 2009, Christopher Darling personally appeared before me on behalf of Direct Title Insurance Agency, Inc. and read this Consent Order, executed the same and acknowledged the same to be their voluntary act and deed.



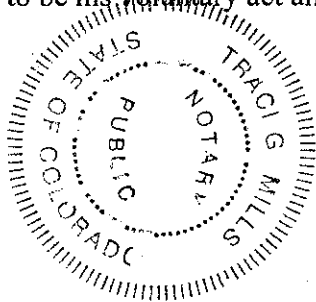

Notary Public

Christopher L. Durling
Christopher L. Durling,
Respondent

4/22/09
Date

State of Colorado)
County of Jefferson) ss.

On this 22nd day of April, 2009, Christopher L. Durling personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



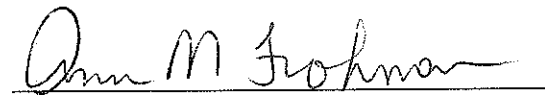
[Signature]
Notary Public
exp 3/25/2013

Michael A. Zara, Esq.
Michael A. Zara
Attorney for Respondents
4/22/09
Date

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Direct Title Insurance Agency, Inc., and Christopher L. Durling, Cause No. A-1819.

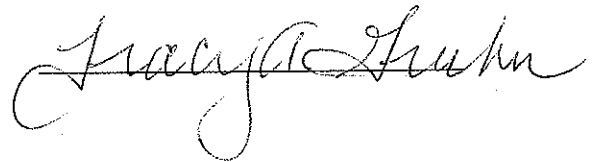
STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


ANN M. FROHMAN
Director of Insurance

4/23/09
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to Respondents' counsel, Michael A. Zara at 4251 Kipling Street, Suite 400, Wheat Ridge, CO 80033, by certified mail, return receipt requested on this 23rd day of April, 2009.



RECEIVED

APR 23 2009

RECEIVED
DIRECTOR OF INSURANCE
STATE OF NEBRASKA